IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR

BENCH, JAIPUR

JUDGMENT

1.SUDHIR KUMAR & Ors. V/S STATE OF RAJ.
(D.B.Cr. APPEAL No.655/2004)

2. STATE OF RAJ. V/S ISHWAR SINGH & Ors
(D.B.Cr. APPEAL No.858/2005)

3. VINOD KUMAR V/S STATE OF RAJ. & Ors
(D.B.Cr. REVISION PETITION No.772/2004)

4. JAGVEER V/S STATE OF RAJ.
(D.B.Cr. APPEAL No.856/2004)

5. HUKMI CHAND V/S STATE OF RAJ.
(D.B.Cr. APPEAL No.788/2004)
AND
6. ISHWAR SINGH & Ors V/S STATE OF RAJ.
(D.B.Cr. APPEAL No.685/2004)

DATE OF JUDGMENT ::: JANUARY 03,2007

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA
HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri Biri Singh Sinsinwar)
Shri Kamlendra Sihag)
Shri Gaurav Choudhary)
Shri Anil Poonia), for the appellants.

Shri M.L. Goyal, P.P.
Shri Arvind Kumar Gupta for the complainant.

BY THE COURT : (PER MOHAMMAD. RAFIQ,J.)

REPORTABLE

The aforementioned five criminal appeals and one criminal revision petition, arises out of the

common judgment dated 28.5.2004 passed by the learned Additional Sessions Judge No.1 (Fast Track), Jhunjhunu whereby accused appellants - (1) Ishwar Singh, (2) Pramendra @ Pappu, (3) Vinod Kumar, (4) Jai Singh, (5) Jagveer, (6) Tejpal @ Teja, (7) Dharmendra, (8) Rajpal, (9) Sudhir Kumar, (10) Jai Pal Singh, (11) Jai Singh S/o Shri Mam Chand, (12) Hukmi Chand and (13) Nihal Singh @ Nihala, were convicted for offence u/s 148 IPC and each of them was sentenced to two years rigorous imprisonment with fine of Rs.500/-, in default whereof, to further undergo 15 days' simple imprisonment and were also convicted for the offence under section 325 read with section 149, IPC and each of them was sentenced to two years rigorous imprisonment with fine of Rs.500/-, in default whereof, to further undergo 15 days' simple imprisonment. All the accused appellants were convicted for offence u/s 323 r/w 149 IPC and each of them was sentenced to one year's rigorous imprisonment with fine of Rs.250/- and in default whereof, to further undergo 7 days simple imprisonment. All the accused were convicted for

offence u/s 447 and each of them was sentenced to one month's rigorous imprisonment with fine of Rs.250/- and in default whereof, to further undergo 7 days simple imprisonment. Accused Nihal Singh @ Nihala, Sudhir, Jaipal Singh, Jai Singh and Jagveer were separately convicted for offence u/s 304-II r/w 149 IPC and each of them was sentenced to undergo rigorous imprisonment of 10 years with fine of Rs.1000/- and in default whereof, to further undergo one month's simple imprisonment. All the sentences were ordered to run concurrently.

Learned trial court further directed accused appellants Nihal Singh @ Nihala, Sudhir, Jaipal Singh, Jai Singh S/o Shri Mam Chand and Jagveer that each of them shall to pay a sum of Rs.10,000/-, in total Rs.50,000/-, to complainant Ramswaroop, husband of deceased Mst. Chand Kaur.

The facts giving rise to these matters are that one Vinod Kumar submitted a written report to SHO, Bhuhana at 10.40 A.M. on 15.3.2000, inter alia, stating therein that Ishwar Singh S/o Shri Sada Ram, Jagveer S/o Dodraj and Pappu S/o Shri Daria Singh, who were in drunken condition, came in front

of the house of complainant Vinod Kumar at about 10.00 P.M. on 14.3.2000 and started abusing the complainant and his family members. They did not come out from the house. These people went back stating that they would come back in the morning of the following day. When the members of the complainant party went to their agricultural field at about 9.00 A.M. on 15.3.2000 for manufacturing bricks - Jaipal, Sudhir, Jai Singh, Hukmichand, Ishwar Singh, Jai Singh S/o Shri Sada Ram, Jabveer, Dharmendra, Vinod, Raju, Teju and Pappu S/o Shri Dariya Singh came there having 'Lathies', 'Barchhis', 'Kulharis' and 'Hockies' etc. in their hands and suddenly attacked the complainant party. These people snatched gold chain of Gayatri and gold chain and wrist watch of Vinod.

A regular First Information Report was chalked out bearing No. 21/2000 for offences under sections 147, 148, 149, 447, 379, 341, 323 and 307 IPC. On account of death of Mst. Chand Kaur, offence u/s 302 IPC was later added in the same FIR. The Investigating Officer after completion of investigation, filed challan on 13.6.2000 against

accused Ishwar Singh, Parmendra, Vinod, Jai Sinlgh, Jabveer, Tejpal, Dharmendra and Rajpal but kept the investigation open against other accused namely, Jaipal, Sudhir, Jai Singh, Hukmi Chand and Nihal Singh under section 173(8) Cr.P.C. Subsequently, on 25.1.2001 supplementary challan was filed also against Nihal Singh, Jai Singh S/o Shri Mam Chand, Hukmi Chand, Jaipal Singh and Sudhir for the offences under sections 147, 148, 149, 447, 307, 302 and 323 IPC.

The prosecution examined as many as 18 witnesses in support of its case and exhibited 17 documents, and the defence however examined six witnesses and exhibited 18 documents. Upon completion of evidence, the learned trial court after hearing arguments of the prosecution as well as the defence finally convicted and sentenced the accused appellants as indicated above. While the accused appellants have filed the aforesaid four appeals against their conviction and sentence, the State of Rajasthan has filed Appeal No.858/05 by leave of this Court under section 378(i)(iii), Cr.P.C. against acquittal of the accused for

offences u/ss 302, 302/149, 307 and 307/149 IPC, Complainant Vinod Kumar has also filed D.B. Cr. Revision Petition No.772/2004 assailing acquittal of the accused for offence u/s 302 IPC seeking their conviction for that offence. Since all the appeals and revision petition arises out of the same judgment, they were tagged together and were simultaneously heard and therefore are now being decided by this common judgment.

We have heard Shri Biri Singh Sinsinwar, Shri Kamlendra Sihag, Shri Gaurav Chaudhary and Shri Anil Poonia, learned counsel for the appellants and Shri M.L. Goyal, learned Public Prosecutor and Shri Arvind Kumar Gupta, learned counsel for the complainant.

Learned counsel for the appellant (in Appeal No.655/04) argued that the learned trial court has applied different yardsticks in evaluating and appreciating the statements given by the prosecution witnesses and those of the defence witnesses. In doing so, the learned trial court has completely missed the basic rule of burden of proof that while the prosecution has to prove its

case beyond reasonable doubt, defence has to only probablise its version because degree of standard of proof required for the defence is only by preponderance of probabilities. Even though as many as six defence witnesses have given the probable defence of the accused but the same has not been correctly appreciated by the learned trial court. These witnesses provided corroboration to the defence of the accused appellants disclosed by them in the statements under section 313 Cr.P.C. Accused Pramendra @ Pappu in his statement before the trial court stated that he had gone to Jaisinghpura and continued to stay there from 14.3.2000 to 16.3.2000 for some consultation with Ram Singh but he was falsely implicated on account of political rivalry. Accused Rajpal has stated in defence that he was not present at the time of incident and was in fact at the residence of Manphool Mistri with Jai Singh and Dharmpal at Bhooriwas and he too was falsely implicated. Accused Hukmichand has categorically stated that on 14.3.2000, he had gone to Mahendragarh, in State of Haryana and returned back from there on

16.3.2000 and Jagdish and Ratan Singh were with me at that time and thus he was falsely implicated. Shri Biri Singh further argued that the accused appellants had no intention of causing death of deceased Mst. Chand Kaur. The evidence that has come on record coupled with the defence of alibi offered by a number of accused clearly indicates a definite tendency on the part of the complainant party to falsely implicate innocent persons. This makes out a case of false implication and, at least of over implication thus making prosecution story completely doubtful. According to him, the motive of the complainant party in implicating the accused was political rivalry between two groups of the village because wife of accused Nihal Singh had contested election for the office of Sarpanch and was defeated by the candidate of the accused party by a thin margin of merely 15 votes.

Shri Biri Singh, learned counsel further argued that the case of the prosecution does not inspire confidence and becomes doubtful if examined in the light of defence offered by the

accused. The complainant party has asserted it to be a case of free fight and has not attributed any specific injury to any specific accused but has made omnibus allegations against all the accused. On the other hand, yet none of the appellants suffered a single injury.Not only this, the the prosecution has tried to improve the case as originally disclosed in the FIR in which the presence of some of the appellants, had not been shown but in the evidence before trial court they have been roped in. Though lathi has been recovered at the instance of accused Jai Singh, but at the same time, lathies have also been recovered at the instance of accused Vinod Kumar and Ravindra and according to FSL report Ex. P17, they were found to have contained human blood. But then, the quantity of blood contained on the lathies recovered at the instance of the accused Ishwar was not sufficient for tests and no other weapon was recovered at the instance of any other accused. Therefore, there is no evidence so far as accused Sudhirkumar,Jaipal,Jaisingh and Nihalsingh are concerned,which can connect them with the

crime. He further argued that Dr. Girdhari Lal Meena (PW 8) has proved that accused Jai Singh S/o Shri Sada Ram had one lacerated injury on his head and three other injuries, but the prosecution has failed to give explanation for these injuries. He therefore argued that the conviction and sentence of the accused appellants is bad in law and deserves to be set aside and they are liable to be acquitted of all the charges.

Shri Gaurav Choudhary,learned counsel appearing on behalf of accused appellants Jagveer, Ishwar Singh, Permendra @ Pappu, Vinod Kumar, Jai Singh S/o Shri Sada Ram, Tejpal @ Teja, Dharmendra and Rajpal also assailed the correctness of the same judgment and argued that the accused appellants have been falsely implicated on account of political rivalry for the reason that wife of accused Nihal Singh had contested the election for the post of Sarpanch and therefore the complainant party had a grudge against accused Nihal Singh and implicated many of his relatives in the present case. Some of the accused appellants have not even been named in the FIR, yet the

prosecution has improved upon their original version in the court during trial and falsely implicated them. Shri Choudhary also made the same arguments as noted above in the support of other appeals that the prosecution witnesses are not telling truth when they name the accused by assigning specific injuries and this is also proved from the fact that no specific injury was assigned to any accused in the originally disclosed version in the FIR. Vidhya Devi (PW1), Gayatri Devi (PW2), Kumari Suman (PW4), Dharmvir (PW5) and Vinod Kumar (PW9) are all closely related to each other and therefore also related to deceased Mst. Chand Kaur. These witnesses are highly interested witnesses and have reflected the tendency of false litigation. Their testimony ought to have been scrutinised by the learned trial court with a great amount of circumspection. The trial court has believed their version at their askance. The learned trial court failed to appreciate that there was neither any pre-planing nor was there any premeditation. The conviction of the accused appellants was therefore bad in law.

Shri Anil Poonia, learned counsel for appellant Hukmi Chand adopted the arguments made by other counsel representing rest of the accused appellants and submitted that the informant in the FIR which gives the original version stated that all the accused persons came with lathi, Barchhi, axes and hockey, whereas all the prosecution witnesses, mostly those who are described as eye-witnesses, have stated that accused appellants were armed with lathis and only one witness was having hockey, whereas accused Nihala Singh had no weapon at all. While some of the witnesses have assigned some specific role to other accused but neither any specific injury nor any overt-act has been attributed to accused Hukmi Chand. The learned trial court failed to appreciate the plea of alibi offered by accused Hukmi Chand that he was not present at the time of incident and had gone to Mahendragarh in the State of Haryana for selling wood. While the prosecution witnesses have stated that accused Hukmi Chand was having a lathi in his hand but the prosecution has made recovery of hockey stick

at his instance. This again reflects that the accused has been implicated falsely. Even otherwise, the prosecution story does not inspire any confidence when they say that 13 accused armed with weapon came there and the members of the complainant party being 18 in all, yet they did not pose any resistance. Therefore, he argued that the conviction be set aside.

On the other hand, Shri M.L. Goyal, learned Public Prosecutor and Shri A.K. Gupta, learned counsel for the complainant while opposing the arguments made by the learned counsel for the accused appellants in so far as the conviction recorded there against is concerned also assailed the findings and conclusion of the learned trial court to the extent of acquittal of the accused appellants for the offences under section 302, 302/149, 307 and 307/149 IPC. It was argued that the learned trial court did not correctly appreciate the statements of the prosecution witnesses and the charges for the offences u/s 302, 302/149, 307, 307/149 were fully proved against the accused appellants. When the same set

of evidence has been accepted for the purpose of holding the accused appellants guilty for the offences under sections 304-II, 323, 447, 325 read with section 149, there was no reason not to convict the accused appellants for offences under sections 302 and 307 r/w 149 for the death of Mst. Chand Kaur. This was all the more necessary because the accused appellants had come at the scene of the occurrence fully armed with weapons and had attempted to attack the complainant in the previous night too. Evidence that has come on record clearly proves that the accused had a common object and acted in furtherance thereof to fulfill that common object. In order to fulfill such object, they inflicted injuries on the person of deceased Mst. Chand Kaur and other family members. It was therefore argued that the acquittal of the accused for the charges under the aforesaid offences was bad in law. The appeal filed by the State and revision petition filed by the complainant therefore deserves to be allowed.

We have given our thoughtful consideration to the arguments advance by learned counsel for the

parties and perused the material on record.

A critical analysis of the prosecution evidence reveals that Vinod Kumar (PW9) who is informant, has taken shifting stand that from inception when he filed FIR and till his examination as PW 9 during trial. While in the FIR, he stated that accused had come to their residence in the night of the previous day and had abused them. Due to fear, they did not come out of the house. Then he stated that on the following day at 9.00 AM when they came to their agricultural field, the accused persons came there armed with lathis, Barchhis, axes, hockey etc. Version contained in the FIR has not been corroborated by the complainant himself and other witnesses during their statements made in the court. While four different weapons were attributed to as many as 13 accused but the evidence that has come during trial is that 11 out of these 13, had only lathis and only one accused had hockey, whereas accused Nihal Singh had no weapon at all. None of the accused, therefore was armed with Barchhis and Kulhari as originally

alleged. This clearly indicates an attempt to exaggerate the things from beginning. Moreover, this witness in the FIR has asserted that at the time of beating, the accused had snatched the 'tewta' (made of gold) from the person of injured Gayatri and had also snatched wrist watch and gold chain from the person of injured Vinod but the prosecution witnesses themselves did not support this portion of the allegation during the statements before the trial court. This again reflects the tendency of exaggeration and false implication on the part of complainant party from inception. In the first version given in the FIR, the complainant had made an omnibus allegation against the accused persons by not assigning any specific injury to any accused. But during trial, apart from the complainant Vinod Kumar, the number of other prosecution witnesses, who are mostly related with one another, have tried to attribut specific roles to one or the other accused which is again suggestive of improvement made by them on the original version as disclosed in the FIR.

It is in this scenario that we have to examine the arguments made by both the sides to arrive at the truth and in that process, separate the grain from the chaff so that while the culprit may not go scot-free, but at the same time, the innocent may not suffer. But then, this has to be ensured keeping in view the required decree of proof in that the prosecution has to prove the offence against the accused persons beyond reasonable doubt. If upon evaluation of evidence, charges against the accused are not proved by cogent evidence beyond reasonable doubt and there are two views possible in regard to the alleged role played by an accused in the crime, his defence in that situation gets a momentum thereby making him entitled to benefit of doubt. Application of this litmus test to any criminal case, would have definite bearing on the ultimate finding recorded by the trial court and later by the appellate court, which may eventually result in acquittal of some of the accused.

Keeping in view the aforesaid principle of law in mind, we have to analysis the evidence in the present case specially the eye-witness account to find out whether the wholesome manner in which the learned trial court has recorded the conviction of all the accused for various offences, indicated above, can, in the light of the evidence available on record, be justified. According to the prosecution, apart form the deceased Mst. Chand Kaur, there are number of other injuries which have been suffered by other members of the complainant party such as Shyam Sunder, Vinod, Suman, Vidhya Devi, Gayatri and Mukesh. Barring one injury of Vidhya Devi (PW1) which was found to be a fracture of middle finger of her left hand, injuries sustained by all other persons were found to be simple in nature. Such of the injured persons whose statements were recorded during trial court have been accepted by the trial court as eye-witnesses. We have to examine the correctness of the findings recorded by the learned trial court on the basis of appreciation of the evidence that has come on

record by way of statements of these witnesses. Vidhya Devi (PW1) in her statement has stated that Sudhir inflicted lathai blow on the head of Mst. Chand Kaur and thereafter Jaipal also inflicted a lathi blow on the head of Mst. Chand Kaur, as a result of which Mst. Chand Kaur fell on the ground. Third lathi blow was inflicted by Jagveer on the chest of Mst. Chand Kaur whereas fourth lathi blow again on her chest was inflicted by accused Jai Singh. She has stated that she suffered fracture in the middle finger of her left hand on account of lathi blow caused by accused Jaipal. Vidhya Devi (PW1) has stated that out of 13 accused, 11 had lathies. Dharmender had stick, whereas accused Nihal Singh had no arm. Similar version with regard to the armoury with the accused partly has been given by Gayatri Devi (PW2) who has corroborated the statement of Vidhyadevi when she stated that Sudhir Kumar inflicted first lathi blow on the head of deceased Mst. Chand Kaur and second blow on her head was caused by accused Jaipal. When Mst. Chand Kaur fell on the ground, Jai Singh inflicted

lathi blow on her chest and another lathi blow on her body was caused by Jagveer. Vidhya Devi (PW1) stated in her statement that Isahwar caused lathi blow on her head, another lathi blow again on her head was inflicted by Teju and third lathi blow at that time again on her head was caused by Jaipal as a result of which she fell on the ground and these three persons beat her with lathis while she lay helpless on the ground. Suman (PW4) has also given similar version as to the injury of deceased Mst. Chand Kaur as has been given by Vidhya Devi (PW1) and Gayatri Devi (PW2). She stated that Dharmendra, Vinod and Jai Singh beat her. Ramswaroop (PW5) has also given similar version in regard to the injuries caused on the person of deceased Mst. Chand Kaur as given by first three eye-witnesses namely Vidnya Devi (PW1), Gayatri Devi (PW2) and Suman (PW4). He states that he himself, Vinod, Shyam, Vidhya Devi, Gayatri and Suman went to save Mst. Chand Kaur. He states that Jai Singh caused lathi blow on his head and another lathi blow was inflicted on his right hand by accused Rajpal. Vinod Kumar (PW9)

who is informant in the case, has also stated that Sudhir inflicted lathi blow on the head of deceased Mst. Chand Kaur followed by accused Jaipal who also inflicted a lathi blow on her head and when she fell on the ground, Jai Singh inflicted a lathi blow on her chest and then thereafter Jagveer also caused another lathi blow on her chest. As regards his own injury, he states that Jagaveer inflicted lathi blow on his head and thereafter Ishwar also inflicted lathi blow on his head and two lathi blows on his right hand were inflicted by accused Sudhir, then one lathi blow on his left hand was caused by accused Ishwar and then yet another lathi blow on his back was inflicted by accused Jagveer.

Statements of these witnesses when examined in the light of the medico-legal evidence that has come on record in the shape of injury reports, would clearly reflect a tendency of exaggeration. Post mortem report of deceased Mst. Chand Kaur is Ex. P5 which has been proved by Dr. Narendra Singh Naruka (PW6).The injury report of deceased Mst. Chand Kaur is Ex.P16. The injury report of

Vidhya Devi (PW1) is Ex. P10, Injury report of Gayatri Devi (PW2) is Ex.P13, Injury report of Suman (PW4) is Ex.P9, Injury report of Dharmveer (PW5) is Ex. P 7 and Injury report of Vinod Kumar (PW9) is Ex.P8. All these injuries reports were proved by Dr. Girdhari Lal Meena (PW 8). Scrutiny of all these injury reports in the light of their version given in the court, do not corroborate such injuries with reference to the specific role assigned to the accused which makes their testimony doubtful. The first version disclosed by the informant Vinod Kumar (PW9) is the FIR where he has merely made an omnibus allegation against all the accused without assigning any specific role or overt-act to any of the accused. But examination of the available evidence on the charges against the accused for causing death of Mst. Chand Kaur, reveals that all the eye witnesses referred to above namely Vidhya Devi (PW1), Gayatri Devi (PW2), Suman (PW4), Dharmveer (PW5) and Vinod Kumar (PW9) have consistently stated in their statements that first head injury on the person of deceased Mst.

Chand Kaur was caused by accused Sudhir followed by Jaipal who inflicted her second head injury. Post mortem of the dead body of deceased Mst. Chand Kaur was conducted by Dr. Narender Singh Naruka, who was examined as PW6. He has proved the post mortem report as Ex. P5. On examination of her body, she was found to have sustained four injuries. Injury No.1 was lacerated wound 6 x 1½ cm x deep to skull bone on left parietal region placed obliquely with ant end medially about 1 cm left to mid line, injury No.2 was lacerated would 4 x 1 x bony deep on right occipital region of skull nearly parallel to mid line & 2 cm away from mid line, injury No.3 was found bruise 10 x 1½ cm on right of chest placed horizontally about 4 cm below the nipple, injury No.4 was bruise 11 x 1½ cm on right side of chest placed horizontal 1 cm below to injury No.3. In the opinion of the doctor, the cause of death of Mst. Chand Kaur was shock, all the injuries were found ante-mortem in nature and the injury No. 1 and 2 were held sufficient to cause death. But we find that the other two injuries which were caused on the

chest of the deceased were only bruises and were opined to be simple in nature.

And there is also a major disparity in the dimension of the injuries No.3 and 4 when we compare post mortem report (Ex.P/5) of the deceased Mst. Chand Kaur with her injury report (Ex.P/16). While the post mortem report was prepared at 5.45 PM on 15.3.2000, the injury report was prepared earlier in point of time, though on the same day, at 10.40 AM. But there is a significant difference in the dimension of injuries No. 3 and 4 recorded in them. Though both described as bruised, dimension of injury No. 3 in the post mortem report is 10 x 1½ cm as again 6½ x 1 cm recorded in injury report. Similarly injury No.4 which was also a bruise, had the recorded dimension of 11 x 1½ cm in post mortem report as against 8½ x 1 cm in injury report. This could either due to wrong measurement or because of lapse of seven hours in between, but in either eventuality, benefit of this discrepancy in the prosecution case must go to the defence because prosecution has not put forth any explanation for

the same.

Now coming back to grievous injuries, the first injury cased on the left parietal and second on right parietal region on the skull bone of the deceased in fact proved fatal and were responsible for causing her death. It was an incident in which number of injured were there and number of persons were present at the time of incident from both the sides. The prosecution witnesses in so far as the first and second injuries caused on the head of deceased Mst. Chand Kaur are concerned, have consistently stated that it was Sudhir who has inflicted lathi blow on the head of deceased followed by Jaipal who inflicted second lathi blow on her head. Notwithstanding the exaggeration and improvement made by the witnesses in their statement, their version to this extent not only is consistent with each other but also finds corroboration from medico-legal reports and even the statement of medical experts. The other two injuries assigned to accused Jagveer and Jai Singh did not result in causing any grievous hurt and merely bruised

simple in nature and therefore were not responsible for causing death of Mst. Chand Kaur. The evidence that has come on record clearly suggests that accused Jai Sing and Jagveer cannot be held guilty of causing any such bodily injury on the person of deceased Mst. Chand Kaur, which they knew, was likely to cause her death. But enough evidence has come on record to bring home the guilt of accused Sudhir Kumar and Jaipal for that offence. At the same time however charge against them for offence u/s 302 IPC has not been proved because requisite evidence has not come on record that they had caused those injuries on the person of Mst. Chand Kaur with the intention of causing her death. Such evidence thus clearly prove it beyond reasonable doubt that it were these two accused alone who caused her culpable homicide not amounting to murder with knowledge but without knowledge in furtherance of the common intention which make them alone responsible for conviction u/s 304-II, IPC. All other accused including accused Jagveer and Jai Singh in our considered view, are entitled to benefit of doubt

because none of the offence for which they were charged, have been proved against them beyond reasonable doubt.

For these reasons, we dispose of instant matters in the following terms :-

(i) We partly allow the appeal of appellants Sudhir Kumar and Jaipal Singh and instead of section 304 part II read with 149 we convict them under section 304 part II read with 34 IPC. Looking to the fact that these appellants have already undergone confinement for a period more than 5 years and 11 months the ends of justice would be met in sentencing them to the period already suffered by them. We thus reduce their sentence from ten years to the period already undergone by them in confinement. We however acquit them of the charges under sections 447, 323/149, 325/149 and 148 IPC. The appellants Sudhir Kumar and Jaipal Singh, who are in jail, shall be set at liberty forthwith, if not required to be detained in any other case.

(ii) We allow the appeals of appellants Ishwar Singh, Pramendra @ Pappu, Vinod Kumar, Jai Singh

(iii) S/o Sada Ram, Jagveer, Tejpal @ Teja, Dharmendra, Rajpal, Jai Singh S/o Mam Chand, Hukmi Chand and Nihal Singh @ Nihala and acquit them of the charges under sections 148, 325/149, 323/149 and 447 IPC. We also acquit the appellants Nihal Singh @ Nihala, Jai Singh S/o Mam Chand and Jagveer of the charge under section 304 part II read with 149 IPC. These appellants are on bail, they need not surrender and their bail bonds stand discharged.

(iv) We dismiss the State appeal bearing No.858/2005 and the revision petition No.772/2004 preferred by complainant Vinod Kumar.

(v) The impugned judgment of learned trial court stands modified as indicated above.

(Mohammad Rafiq),J. (Shiv Kumar Sharma),J.

Chauhan/